

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 10370 of 1995

&

OTHER COMPANION MATTERS

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?

GIRISH TRAVELS AND CURRIORS LTD

Versus

THE STATE OF GUJARAT

Appearance:

Special Civil Applications No.10370, 10601, 10602,
10603/95, 987, 988, 989.990, 1342, 1343/96

Mr B K Parikh, Advocate for Petitioners
Mr M R Anand, Sr.Counsel with Ms.Harsha Devani,AGP
for the respondents

Special Civil Applications No.7586/92

Mr B N Keshwani, Advocate for the petitioner
Mr M R Anand, Sr.Counsel with Harsha Devani
AGP for the respondents

Special Civil Application No.4262/94

Mr P M Thakkar, Advocate for the petitioner
Mr M R Anand, Sr.Counsel with Ms. Harsha Devani,
AGP for the respondents

Special Civil Application No.2346/96

Mr B M Mangukia, Advocate for the petitioner
Mr M R Anand, Sr.Counsel with Ms. Harsha Devani
AGP for the respondents

Special Civil Applications No.10962/95, 923/96, 1118,
4596 of 1995, 4528, 5451,5515. 6726, 6730
of 1995

M/s. B K Parikh,B M Mangukia, AR Majmudar, Advocates
for the petitioners
Mr M R Anand, Sr.Counsel with Ms.Harsha Devani, AGP
for the respondents

Special Civil Applications No.14286 of 1993

Ns Nayna V Panchal, Advocate for the petitioner
Mr M R Anand, Sr.Counsel with Ms Harsha Devani
AGP for the respondents

Special Civil Application No.14330 of 1993

Mr Y S Lakhani, Advocate for the petitioner
Mr M R Anand, Sr.Counsel with Ms Harsha Devani,
AGP for the respondents

Special Civil Applications No.14469, 14470
14471, 14472 and 14473 of 1993

Mr Manoj Popat, Advocate for the petitioners
Mr M R Anand, Sr.Counsel with Ms Harsha Devani,
AGP for the Respondents

Special Civil Applications No.4851, 4989, 4991, 7563 of
1995, 267, 268/96

Mr J V Japee, Advocate for the petitioners
Mr M R Anand, Sr.Counsel with Ms.Harsha Devani,
AGP for the respondents.

COMMON ORAL JUDGMENT

In this group of petitions, the petitioners have challenged the legality and validity of the action on the part of the respondents, their servants, agents on the seizure and detention of the motor vehicles under section 207 of the Motor Vehicles Act, 1988 (hereinafter referred to as 'the Act of 1988') which are covered by the valid contract carriage permit. It is not in dispute that the controversy raised in this group of writ petitions has been concluded by the judgment rendered by this Court (Coram: C K Thakker, J.) in the case of BALKRISHNA BUS TRANSPORT & ors. vs. STATE OF GUJARAT & ORS., reported in 35 (2) GLR 1371.

2. Learned Advocates for the petitioners submit that the hearing of these matters may be adjourned till the decision in L.P.A. by the Division Bench. It is stated that the appeal against the judgment of the learned Single Judge in the case of BALKRISHNA BUS TRANSPORT (Supra) has been admitted by the Division Bench. A decision of a Co-ordinate Bench, till it is altered by a competent Court, its binding effect cannot be whittled down simply because the matter is pending hearing before the Higher Court. Thus, the prayer for the adjournment is declined.

3. Mr B N Keshwani, learned Advocate appearing in some of the Special Civil Applications submits that there are substantial reasons not to agree with the decision of the learned Single Judge and therefore, this court may refer the matter to the Division Bench. He has tried to persuade me by raising various contentions to adopt the said course, which I need not discuss as I am not persuaded to take a different view than the one taken by the learned Single Judge. Even otherwise there is no necessity of referring the matter, as the same is already pending for consideration before the Division Bench.

3. Thus, for the reasons and conclusions arrived at in the judgment of this Court in the case of BALKRISHNA BUS TRANSPORT (supra), reported in 35(2) GLR 1371, this group of Special Civil Applications is rejected. Rule discharged in each Special Civil Application. No order as to costs. It is however, observed that the police officers and officers of the department while taking action under section 207 of the Act of 1988, will keep

provisions of proviso to sub-section (i) in mind, especially when large number of women and children are there in the bus.

4. It is also brought to my notice that on the identical point, the suits are pending in different Courts in the State of Gujarat. The concerned Courts are directed to dispose of those pending suits involving the aforesaid points in the light of law laid down by this Court in 35 (2) GLR 1371 within a period of 3 months from the date of production of this order by either of the parties.

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